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09/685,274	10/09/2000	Eric Sean Parham	066303.0169	4448
7590	11/15/2006			EXAMINER
Charles S. Fish, Esq. Baker Botts L.L.P. 2001 Ross Avenue Dallas, TX 75201-2980				LEVITAN, DMITRY
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/685,274

Filing Date: October 09, 2000

Appellant(s): PARHAM ET AL.

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Charles S. Fish  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 8/21/06 appealing from the Office action mailed 8/09/05.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

## (7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

## **(8) Evidence Relied Upon**

6,603,760 SMYK 9-2003

DSL forum TR-036, Requirement for Voice over DSL Version 1.0 (August 28, 2000).

## **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

### ***Claim Rejections - 35 USC § 112***

1. Claims 3, 9-11 and 14-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, it is unclear what is meant by “provide the signaling information in a media gateway and call session control format to a class 5 softswitch”, because class 5 softswitch is neither defined in the specification nor a well known in the art; signaling information in a media gateway and call session control format to a class 5 softswitch is neither defined in the specification nor a well known in the art.

In claim 9, it is unclear what is meant by “class 5 softswitch operable to receive signaling information in a network signaling format”, because class 5 softswitch is neither defined in the specification nor a well known in the art; network signaling format to a class 5 softswitch is neither defined in the specification nor a well known in the art.

In claim 11, it is unclear what is meant by “Class 5 softswitch operable to convert the media gateway and call session control format to the network signaling format”, because class 5 softswitch is neither defined in the specification nor a well known in the art.

In claim 14, “receiving signaling information and instructions from a class 5 softswitch”, because class 5 softswitch is neither defined in the specification nor a well known in the art; network signaling format to a class 5 softswitch is neither defined in the specification nor a well known in the art.

***Claim Rejections - 35 USC § 103***

2. Claims 1- 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smyk (US 6,603,760) in view of DSL forum TR-036 (August 28<sup>th</sup>, 2000).

3. Regarding claims 1, 2, 5, 6, 14-16, Smyk teaches:

a system and a method for interfacing between signaling protocols (Fig. 4 and 3:49-62), comprising:

A gateway (access gateway 408 on Fig. 4 and 6:10-47, wherein the access gateway utilizes xDSL technology and includes an xDSL modem as shown on Fig. 1 and 1:40-50) operable to receive signaling information in a media gateway and call session control format (receiving signaling information using MGCP or H.248 standard 9:20-30 and 8:21-23), the gateway operable to convert the media gateway and call session format to a loop emulation service

signaling protocol (converting MGCP protocol into signaling of class 5 switch 9:26-30 to emulate class 5 features for users 420 connected to the gateway 408 as shown on Fig. 4), the gateway operable to provide tone generation (providing a dial tone 8:28-35) and additional detecting capabilities pursuant to the signaling information (collecting the dialed digits 8:36-47).

Smyk does not teach using broadband loop emulation service standard at the gateway, as specified in claims 1 and 14.

DSL forum TR-036 teaches the core Digital Subscriber Line technology to establish advanced architecture standards ADSL, SHDSL, VDSL and using broadband loop emulation service standard/BLES (Annex A: BLES, pages 24-27)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use recently developed broadband loop emulation service standard/BLES to the gateway in the system of Smyk to make the system compatible with other elements of the network utilizing BLES standard, as the gateway should conform to new industry standards, including BLES, introduced by DSL forum, for seamless operation with devices from different manufacturers.

In addition regarding claim 2, Smyk teaches the gateway converting the broadband loop emulation service signaling protocol into media gateway and call session control format (access gateway 408 converting class 5 signaling into MGCP signaling by converting traditional phones 420 signaling, utilizing class 5 features 8:8-13 into MGCP messages 8:13-24).

Regarding claim 3, Smyk teaches the gateway providing the signaling information in a media gateway and call session control format to a class 5 switch (providing class 5 switch features to NGN users 3:49-62).

Regarding claims 9-11, Smyk teaches a class 5 switch (EO 418 and STP 426 on Fig. 4 5:1-4 and 8:56-58), receiving signaling information in SS7 format (signaling system 7 messages 8:56-67), converting it to media gateway and call session control format and vice versa (inherently part of the system because SM operates in media gateway and call session control format and operates with class 5 switch) and controlling incoming call requests from a network through the gateway according to the signaling information (call origination and disconnection by access gateway 408 8:60-67).

4. Regarding claims 12, 13, 19 and 20, broadband loop emulation service signaling/BLES standard TR-036 teaches channel associated signaling format and common channel signaling standard (A.1.3.2 BLES signaling using channel associated signaling format and common channel signaling, page 27).

Regarding claim 18, broadband loop emulation service signaling/BLES standard TR-036 teaches providing the broadband loop emulation service signaling protocol to an integrated access device at the customer premises (A1 BLES reference model, providing IW functions to an integrated access device at the customer premises, page 24).

5. Regarding claims 4, 7, 8 and 17, Smyk and TR-036 teach all the limitations of parent claims 1 and 14.

Smyk does not teach using SGCP, SIP, and H.323 as media gateway and call session control formats, as specified in claims 4, 7, 8 and 17. Official notice is taken that using SGCP, SIP, and H.323 as media gateway and call session control formats is well known and expected in the art. It would have been obvious to one of

ordinary skill in the art at the time the invention was made to add using SGCP, SIP, H.323 as media gateway and call session control formats to the system of Smyk to improve the system compatibility with widely used standards.

#### **(10) Response to Argument**

On page 5 of the Brief, Applicant argues that the term “Class 5 softswitch” was defined in article “TalkingNets to implement telecom technologies”.

Examiner respectfully disagrees.

The Article, written for Supercom 2000, is very general, short and does not teach Class 5 softswitch, but discuss soft switches as an alternative to class 5 switches and contain no in-depth information on the Class 5 softswitch implementation.

Therefore, mentioning a concept of a softswitch in the article, is clearly not sufficient to define Class 5 softswitch, because the article contains mostly marketing/sales information for TalkingNets company and was not intended to define Class 5 softswitch or Class 5 softswitch signaling format.

On page 5 of the Brief, Applicant argues that the term “Class 5 softswitch” was defined on page 2 lines 6-11 of the specification.

Examiner respectfully disagrees.

The quoted portion of the specification only states that Class 5 softswitch is a workstation implementation of Class 5 switch and contain no in-depth information about the implementation of this concept.

Therefore, the specification does not contain sufficient information to define Class 5 softswitch.

On pages 8, 10 and 11 of the Brief, Applicant argues that Smyk does not teach BLES signaling and DSL forum TR-036 does not teach a gateway for protocol conversion.

Examiner respectfully disagrees.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Rejection of claims 1 and 14 (see above), clearly identifies the portions of Smyk and TR-036 directed to the corresponding limitations of the claims.

In addition, DSL forum is an entity, which introduced ADSL, VDSL, etc. standards, utilized by Smyk, and it is the same entity, which also introduced BLES standard in TR-036.

Therefore, compatibility with new standard (BLES) is essential for devices from different manufacturers to work together on the network,

In addition, Applicant statement directed to the problems of the combination/structure of Smyk and TR-036, lack any explanation to support the statement.

On pages 8 and 9 of the Brief, Applicant argues that Class 5 switch of Smyk is different of the Class 5 softswitch of the claims.

Examiner respectfully disagrees.

Class 5 softswitch functions were not properly disclosed in the Application or well known in the art (see arguments above). Therefore, Examiner interpreted the functions of the Class 5 softswitch as functions of the well-known Class 5 switch.

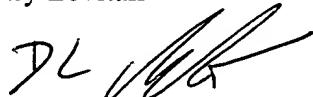
**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Dmitry Levitan



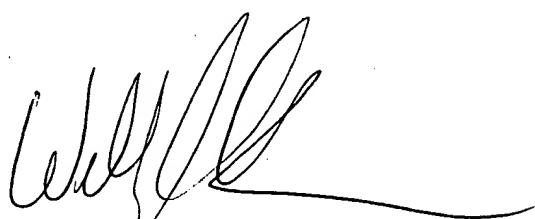
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